

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9569

IN THE MATTER OF:

Served May 18, 2006

Application of BLS LIMO GROUP, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)
)

Case No. AP-2005-195

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If an applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority bears the burden of establishing financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁵

¹ In re Global Express Limo. Serv., Inc., No. AP-02-32, Order No. 6772 (Aug. 13, 2002).

² Id.

³ Id.

⁴ Id.

⁵ Id.

Applicant applied in 2003 to acquire Certificate No. 185 from Bethany Limousine & Buses, Inc., but the application was denied without prejudice for failure to establish regulatory compliance fitness.⁶ Essentially, there were two grounds for denial.

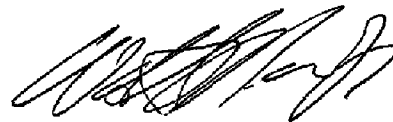
First, the record from the previous application shows that in 2002, Bethany operated a bus marked "BLS LIMO" and filed its WMATC annual report using applicant's stationery. Applicant stated then that this was done without its permission. Applicant states now that since 2003 "there have been no further issues of something from BLS being labeled Bethany or vice versa. BLS and Bethany have different managers, and are separate companies, and will continue to maintain a distinct separation."

Second, the record from the previous application, as amplified by the record in this proceeding, also shows that applicant operated a minibus in the Metropolitan District without any authority. As to this, applicant states that it has transferred the minibus and certain other vehicles to another company. The transfer, however, did not take place until March 2005 -- just two weeks prior to the filing of this application and fully one year after applicant was ordered to cease and desist. Furthermore, said vehicles are still licensed in the District of Columbia and, according to applicant, still display applicant's name. Applicant offers no explanation of why it did not remove its name before transferring the vehicles, and there is no indication that applicant has made any attempt to effect the removal of its name after the fact, even though these vehicles are apparently still being operated in the Metropolitan District without WMATC authority.⁷

Under the circumstances, despite the filing of this application, we cannot say that applicant has made sincere efforts to fully correct its past mistakes and sufficiently demonstrated a willingness and ability to comport with the Compact in the future.

THEREFORE, IT IS ORDERED: That the application of BLS Limo Group, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, SMITH, AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

⁶ In re BLS Limo Group, Inc., & Bethany Limo. & Buses, Inc., No. AP-03-160, Order No. 7897 (Mar. 25, 2004).

⁷ The record identifies Future Travel & Services, a non-WMATC entity located in Alexandria, VA, as the transferee.